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 GOLDEN GATE BRIDGE, HIGHWAY &  
 TRANSPORTATION DISTRICT

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

MARY HOLZHAUER, Individually  
 and as the Personal Representative of  
 HARRY HOLZHAUER, DECEASED,

Plaintiff,

v.

DAVID P. RHOADES, an Individual, GOLDEN  
 GATE BRIDGE HIGHWAY AND  
 TRANSPORTATION DISTRICT, a governmental  
 entity, and and DOES 1-10, Inclusive,

Defendants.

Case No. 3:13-cv-02862 - JST

**STIPULATION AND ~~PROPOSED~~  
 ORDER EXTENDING TIME TO ADD  
 PARTY**

1 Plaintiff MARY HOLZHAUER, Individually and as the Personal Representative of HARRY  
2 HOLZHAUER (DECEASED) ("Plaintiff"), Defendant GOLDEN GATE BRIDGE, HIGHWAY &  
3 TRANSPORTATION DISTRICT (the "District"), and former Defendant David P. Rhoades  
4 ("Rhoades"), respectfully submit the following stipulation and proposed order to allow additional  
5 time to add Rhoades as a defendant herein as follows:

6 WHEREAS Rhoades was originally named as a defendant herein before the District was  
7 named and appeared herein; and

8 WHEREAS Plaintiff voluntarily dismissed Rhoades from this action (without prejudice) on  
9 October 24, 2013; and

10 WHEREAS the parties advised that Court in their Joint Case Management Conference  
11 Statement (Doc. No. 19) that in regard to Amendment of Pleadings, no new parties or amended  
12 pleadings were currently anticipated by the parties other than the fact that depending on the results  
13 of preliminary discovery (including the deposition of Mr. Rhoades) and the completion of the Coast  
14 Guard investigation, Plaintiff might need to re-name Rhoades as a party to the action; and

15 WHEREAS the Court in its Scheduling Order (Doc. No. 20) set the last day to add parties or  
16 amend pleading for February 28, 2014; and

17 WHEREAS the Court also set other dates, including discovery cut-off for July 3, 2014,  
18 dispositive motions for September 26, 2014, and trial for January 5, 2015; and

19 WHEREAS the parties and Rhoades are cooperating to complete the deposition of Rhoades  
20 and other key witnesses with personal knowledge of the cause of the accident, and are exchanging  
21 documents and other evidence, as of this date Mr. Rhoades has not been deposed, the Coast Guard  
22 has not issued its report, and Plaintiff does not have sufficient information available to allow the  
23 Court's deadline to pass and not file her claim against Rhoades; and

24 WHEREAS Plaintiff believes that the on-going investigation and the deposition of Rhoades  
25 may result in a decision *not* to name him again in this action, or may lead to some other resolution of  
26 any such claims against Rhoades (which she contends are subject to the uniform three year of statute  
27 limitations applicable to maritime torts); and  
28

1 WHEREAS if Plaintiff is required, out of an abundance of caution, to name Rhoades  
 2 at this time, she would not thereafter be able to dismiss that claim without prejudice (under  
 3 the two dismissal rule);

4 WHEREAS Rhoades not only does not want to be named herein as a defendant, but he  
 5 does not want to file claims against Plaintiff or the District, however if he is brought into the  
 6 case at this time he would have no choice but to attempt to assert such additional claims  
 7 herein; and

8 WHEREAS the parties and Rhoades agree that all limitation periods will be tolled as  
 9 of the date of this Stipulation and that in the event that Rhoades is brought into the case at a  
 10 later date, his counter and or cross-claims will be only subject to limitation periods that  
 11 expired before February 27, 2014; and

12 WHEREAS Rhoades is agreeable to, and indeed requests, that this deadline be  
 13 extended, and he agrees to maintain all current deadlines and dates set by the Court so long  
 14 as he is given notice of the intent to re-name him herein by April 28, 2014; and

15 WHEREAS Rhoades agrees that the Plaintiff's complaint can be re-served on his  
 16 counsel by that date, and that he will thereafter file his response within twenty days  
 17 thereafter:

18 WHEREFORE the parties and Rhoades submit that good cause exists to extend this,  
 19 and only this deadline, and respectfully STIPULATE and request that the Court order that the  
 20 Plaintiff be given until April 28, 2014 to re-serve Rhoades (via his counsel) and file a proof  
 21 of service with the Court.

22 SO STIPULATED.

23 DATED: February 27, 2014

BRODSKY MICKLOW BULL & WEISS LLP

24 By: /s/ Edward M. Bull III  
 25 Edward M. Bull III

26 Attorneys for Plaintiff MARY HOLZHAUER,  
 27 Individually and as the Personal Representative of  
 28 HARRY HOLZHAUER (DECEASED)

1 DATED: February 27, 2014

STERLING & CLACK

2 By: /s/ David E. Russo  
3 David E. Russo

4 Attorneys for Defendant  
5 GOLDEN GATE BRIDGE, HIGHWAY &  
6 TRANSPORTATION DISTRICT

7 DATED: February 27, 2014

KEESAL, YOUNG & LOGAN

8 By: /s/ John D. Giffin  
9 John D. Giffin

10 Attorneys for Defendant  
11 David P. Rhoades

12  
13 **ORDER**

14 Given the stipulation of the parties and Rhoades, and good cause appearing to support  
15 the extension sought, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff is given until April 28, 2014 to re-serve Rhoades (via his counsel) and to  
17 file a proof of service with the Court;
- 18 2. This is the only deadline to be extended, and any other amendment or addition of any  
19 party shall be due on February 28, 2014 as previously ordered; and
- 20 3. Plaintiff's complaint can be re-served on counsel for Rhoades by April 28, 2014,  
21 and Rhoades will thereafter file his response within twenty days thereafter.

22 IT IS SO ORDERED.

23  
24 DATED: February 28, 2014

